

AZ CAREER PROSECUTOR COURSE

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Phoenix, Arizona



Direct Examination: “Audio, Video, Disco” (I hear, I see, I learn)

Presented by:

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Distributed by:

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Direct Examination:

“Audio, Video, Disco”

(I hear, I see, I learn)

What most prosecutors do for direct examination?

**ARE YOU
NOT**

ENTERTAINED?



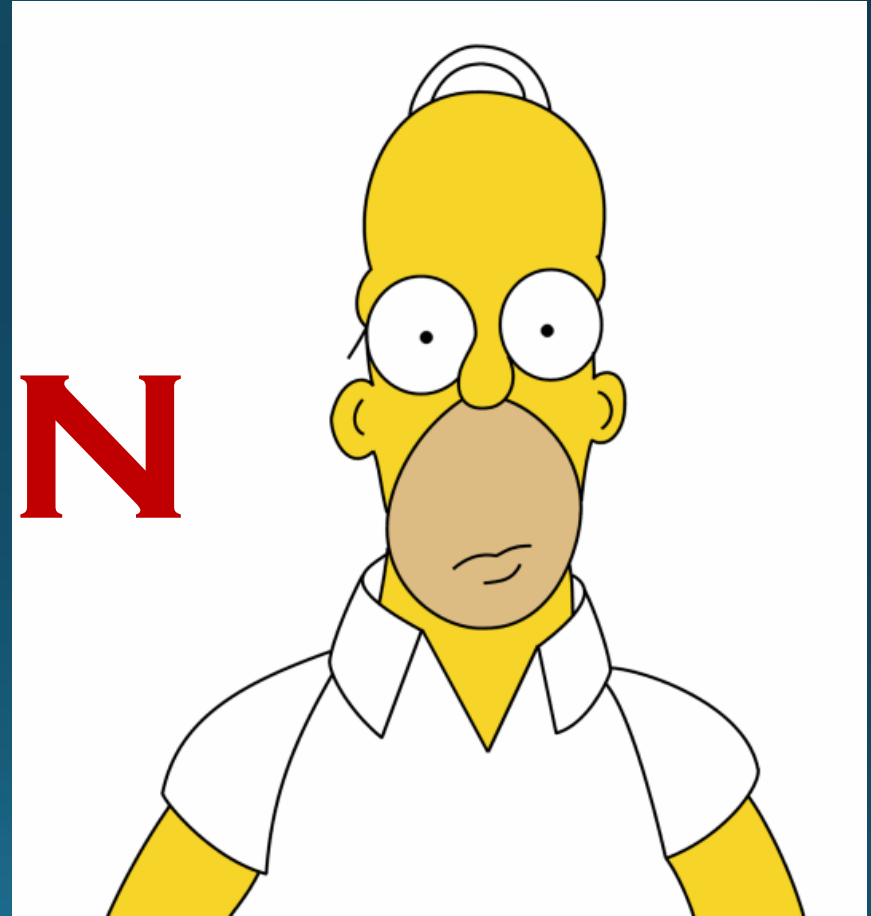
What are our goals?

- Present our theory of the case and evidence to support it – PERSUASIVELY
- Create advocates for our case in the deliberation room
- Combat defenses

Ensure the jury remembers it

What is the biggest cause of wrongful
acquittals?

CONFUSION



The Power of Repetition

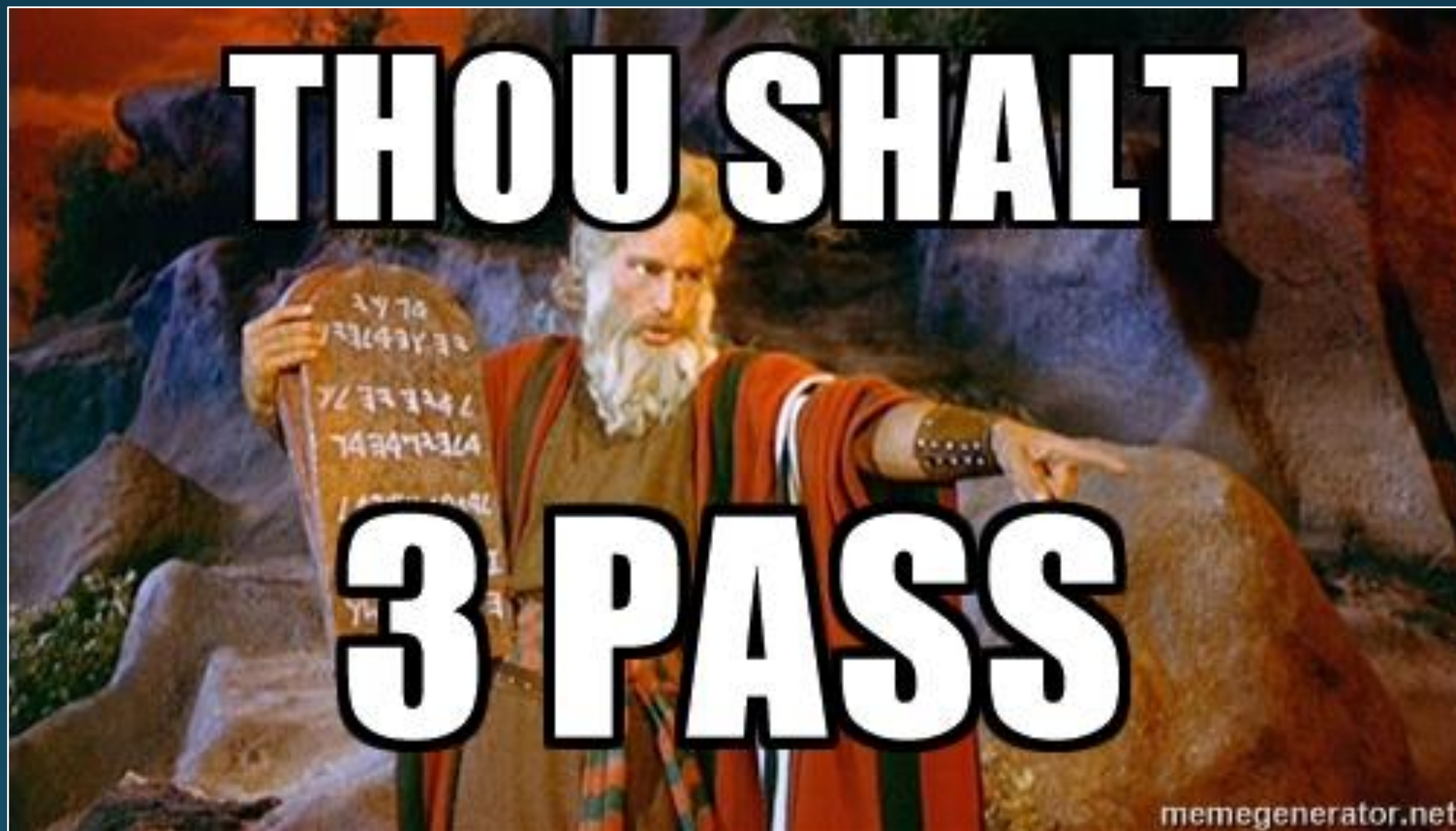
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of
Repetition is the mother of all learning



The 3-Pass Method of Direct Exam



Our responsibility as prosecutors is to present information in a persuasive, memorable way that eliminates confusion and creates advocates for our case in the deliberation room



THOU SHALT

3 PASS

First Pass (explain)

- Allow the witness to tell the entire story of what they saw, heard, experienced, etc.
- Direct the witness when needed using open-ended questions that allow the witness to speak
- Do NOT use any exhibits, visuals, demonstrations, etc.



Training the Witness to give Narrative

Questions that naturally elicit narrative:

- “explain”
- “tell us about”
- “describe”
- “why?”
- “what was going through your mind?”
- “How did that feel?”
- What is the significance of?

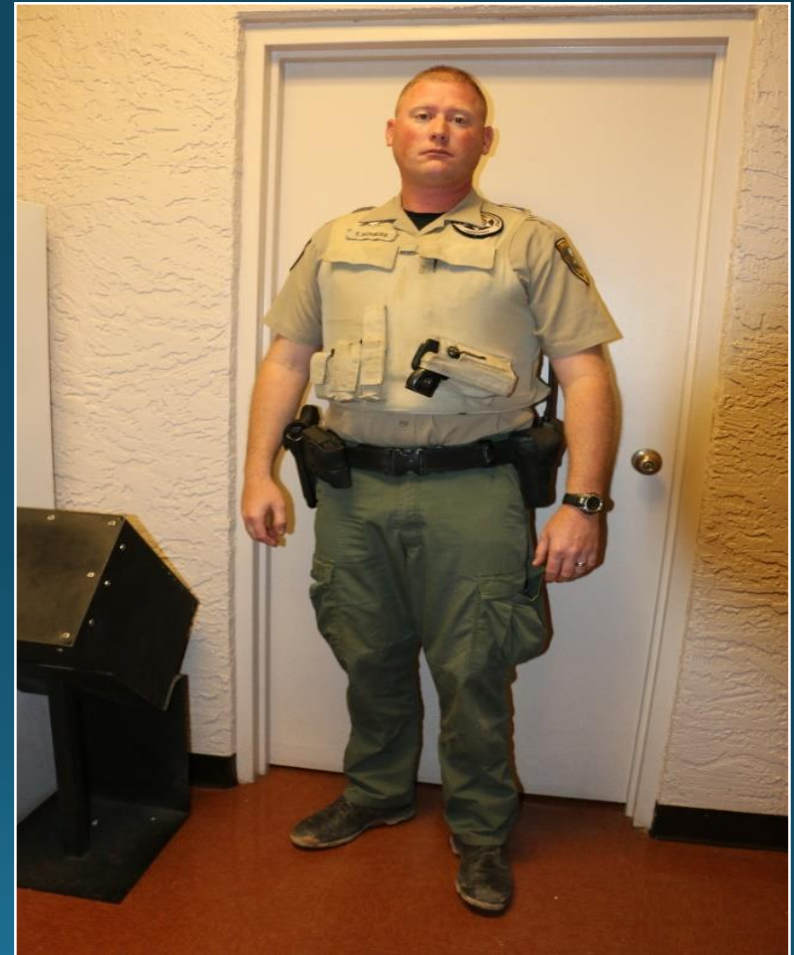
Training the Witness to give Narrative

Questions that are obstacles to narrative:

- closed questions. i.e - begin with: "did," "do," "does," "is," "was," etc.
- Interruptions of the witness
- Leading questions

The Importance of Narrative

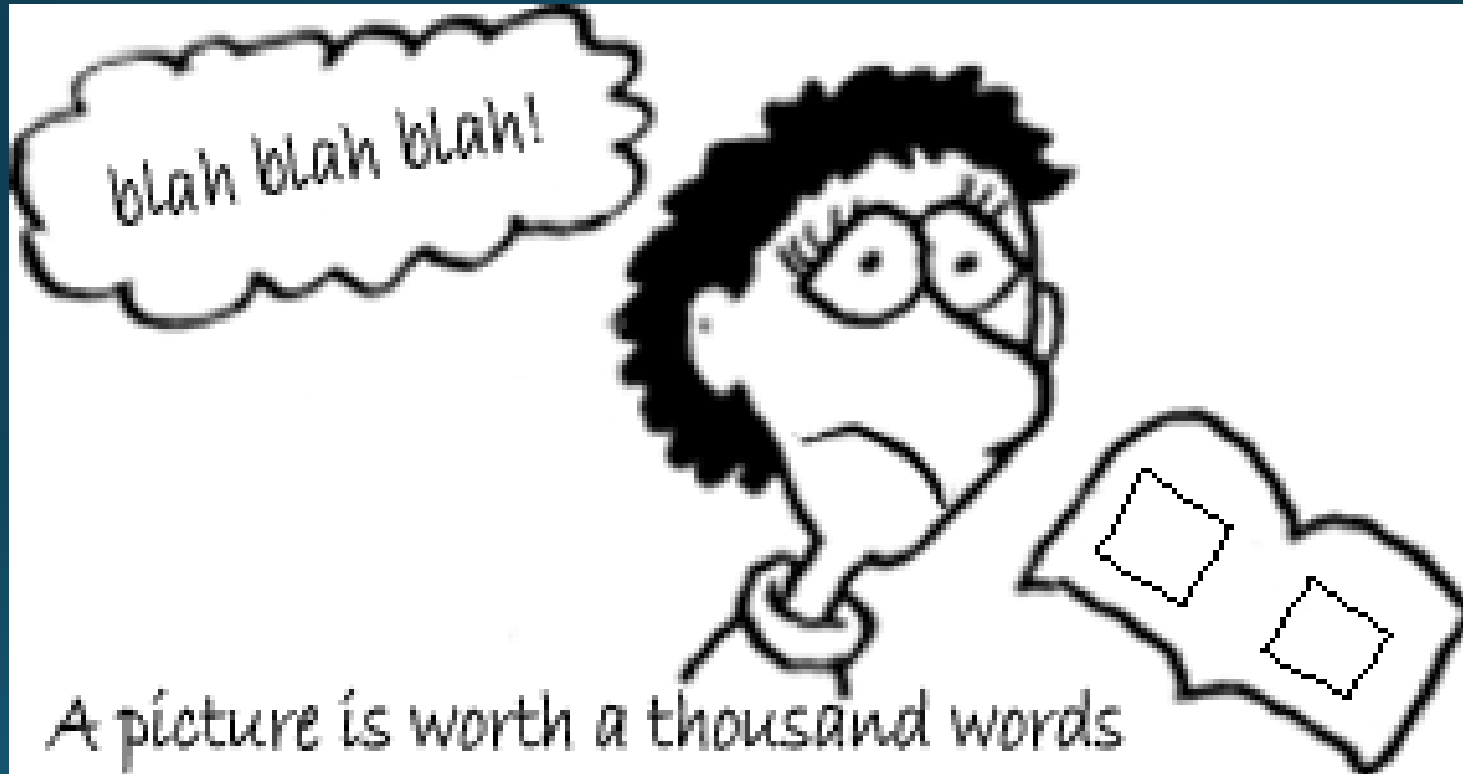
- “I don’t think anyone should take pride in taking another man’s life. Regardless of the circumstances, he had a family, and that brings me sadness. It’s not something I think should be celebrated or talked about”
- “I felt forced to do this”



Signposting



Second Pass (show)

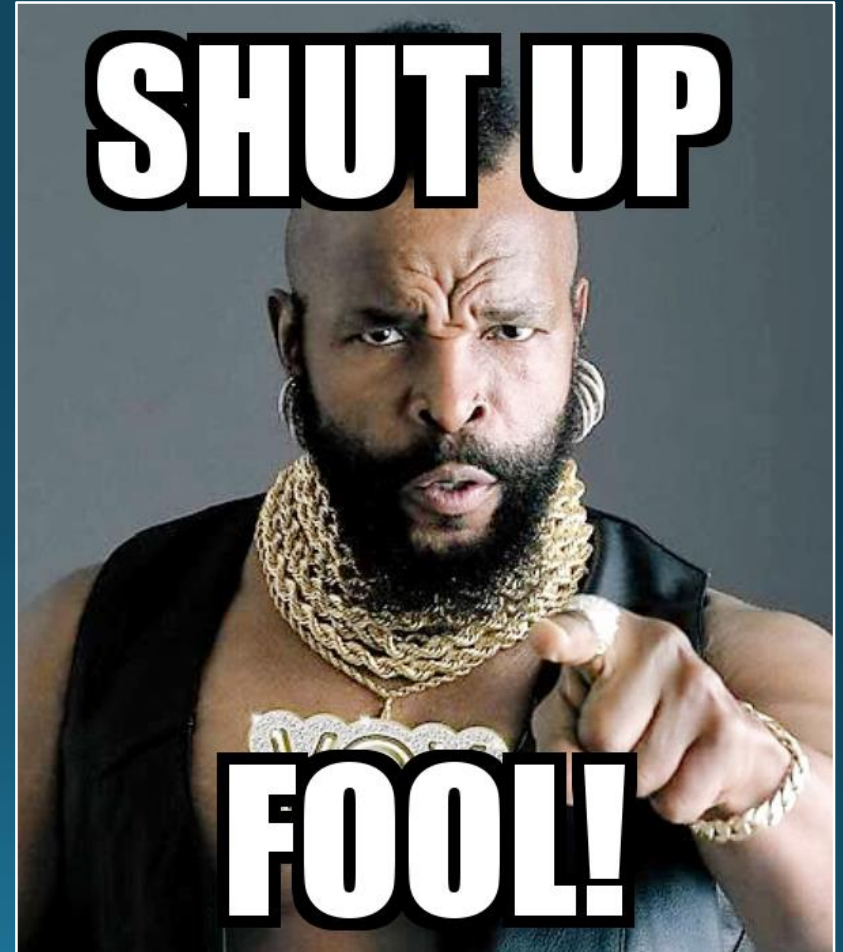


Third Pass (touch, feel, demonstrate)



Enemies of the 3-Pass Method

- LAWYERS
- SCRIPTS
- LACK OF WITNESS PREP
- EXHIBIT ORGANIZATION



Direct Examination of Expert Witnesses

- <http://www.simpsonsworld.com/video/318806595512>

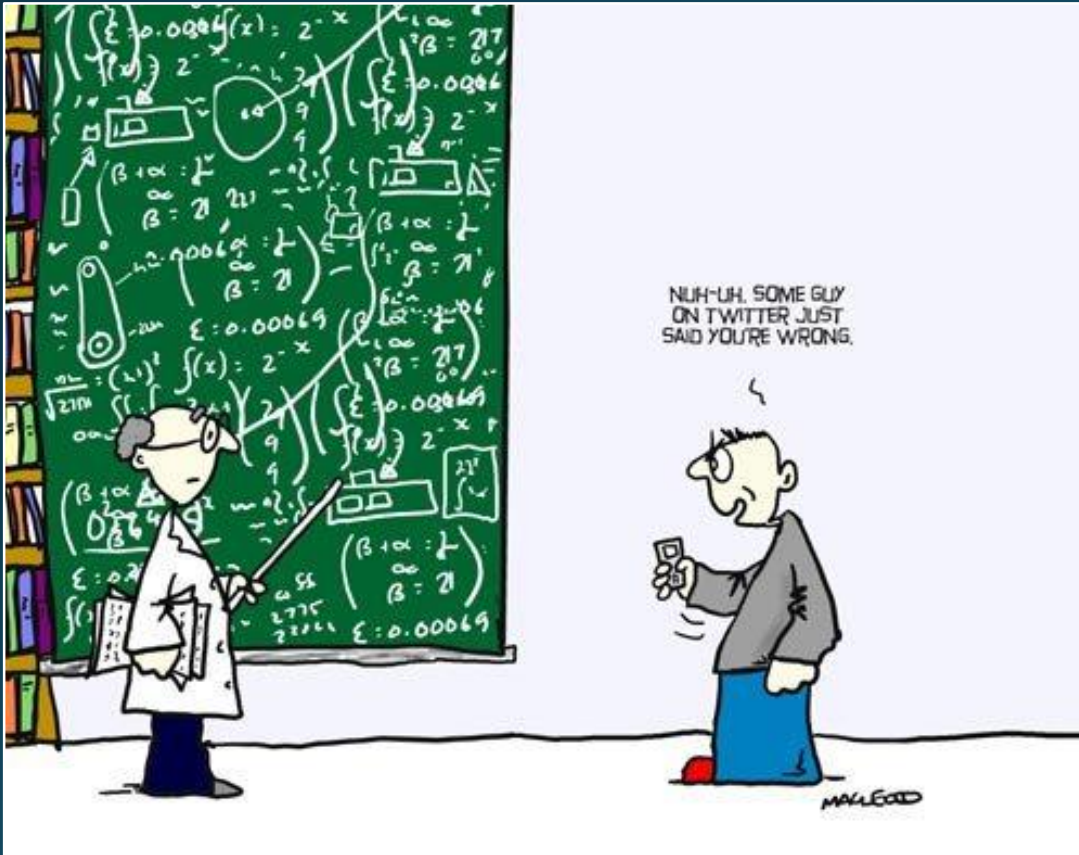


Direct Examination of Expert Witnesses

- In order to present this effectively, you must be a teacher; which means you must become an expert



Direct Examination of Expert Witnesses



- What is the significance of your expert in the case
- Is your scientific evidence being contested
- Does the Defense have their own expert

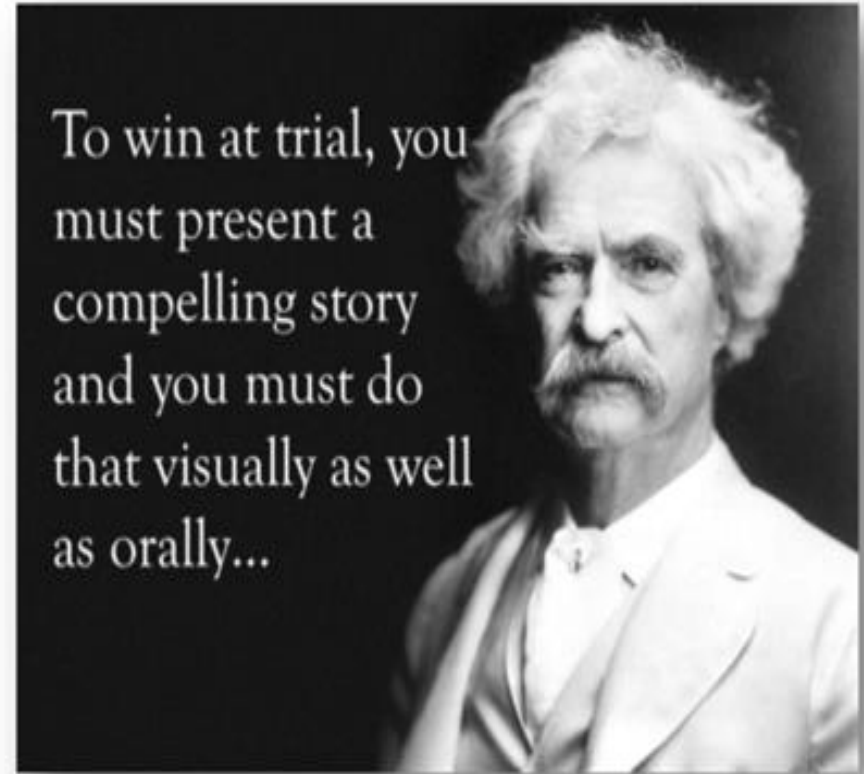
Re-Direct

"Nemo me impune lacessit"

(no one strikes me with
impunity)

Re-Direct

- Punish the Defense for misleading the jury
- Look for whether Defense has opened the door to areas you didn't originally go into
- Address areas of confusion head on
 - i.e. "it was implied on cross-examination that you planted evidence; is that what happened?"



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